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ROSSER BRANDS JUROR’S DENIAL AS FALSE

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FISHER INDICTED IN DALTON AS SLAYER

DALTON, Oct. 22—Ira Fisher, the man who produced the latest sensation in the Frank case, was today indicted for murder by the Grand Jury in session here.

The bill of indictment charges him with killing his brother-in-law, Dug Steel. Steel was found dead beside the Southern Railway

tracks near the northern limits of Dalton about five years ago. It appeared that a train had passed over him, for his head was cut off and the body mangled, but owing to an absence of blood, it was it was thought he had been killed and placed by the track to hide the crime.

This caused the Coroner’s jury to prolong the investigation for several days. A verdict that Steele was killed by a train was finally returned because of inability to find any evidence pointing to anyone as his slayer.

One Grand Jury investigated the death, but took no action. The affair was then forgotten until the present Grand Jury, besieged by rumors that Steele was murdered, reopened the investigation and got enough evidence to warrant the indictment of Fisher.

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CRUSHING ASSAULT ON CONDUCT OF TRIAL IS

MADE IN FRANK'S FIGHT

Reserving until the last their most crushing assault upon the manner in which the Frank trial was conducted and upon the alleged bias of the jurors that tried the accused man, the lawyers for the defense went into the hearing for retrial Thursday afternoon armed with affidavits swearing that Juror A. H. H was in Albany, Ga., on the date he has declared he was not there, and when he is said to have uttered his opinion of Frank's guilt before the trial.

Henslee met the charge that he had expressed in Albany his belief that Frank killed Mary Phagan by the declaration that he was not in that city at the time the utterances were alleged to have been made.

Attorney Rosser announced Thursday afternoon that he would submit to Judge Roan incontrovertible proof that Henslee's name was on the register at a hotel in Albany and under a date corresponding to the time in question.

As another proof that the juror was misrepresenting the fact of the case, the lawyer promised also to submit affidavits from three persons who had sworn that they saw Henslee in Albany at this time.

The forenoon session was practically divided between a determined and uniformly successful struggle by the defense to incorporate the admission of every fragment of character testimony against Frank as a reason upon which to argue for a new trial, and [a squabble over the testimony of E. H. Pickett, who declared that Minola McKnight had told him that her salary in the Frank home was raised immediately after the crime, that she was given a new hat by Mrs. Frank, and that she was instructed

by Mrs. Emil Selig, Mrs. Frank's mother, to say nothing to anyone about the murder.

A long debate also arose over the contention of the defense that the judge erred in letting in the testimony of Harlee Branch, a newspaper man, a newspaper man who made an estimate of the time that it required Jim Conley to re-enact in the factory the part he asserted he had in the Phagan tragedy.

Objection to Testimony.

The objection to this testimony was on the ground that it was a pure conclusion; that it was impossible to take a witness to the factory and have him indicate accurately how long it required for him to do one thing or another; that Branch did not pretend to have timed the performance, and that his testimony would not have been admissible even if he had; that Conley's performance at the factory was not the same as he described It on the stand at the trial; that the negro described It entirely differently on the stand, at least, differently in many particulars; that it could not help the jury for Conley to illustrate his last affidavit when he said on the stand that much of it was a lie and didn't happen at all, and that this evidence was of another transaction and not binding on the defendant. The reason was approved by Judge Roan.

Attorneys Rosser and Arnold maintained that Pickett's testimony should be allowed to stand as a reason to be argued for a new trial, in that it was palpably immaterial evidence employed to impeach the testimony of the McKnight woman. This ground was approved after slight revision by Judge Roan.

Dorsey and Judge Clash.

In a discussion of the nature of the applause during one of the outbreaks

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ATTACK ON JUROR HENSLEE ALONE ENOUGH TO WIN, IS BELIEF OF FRANK DEFENSE

Continued From Page 1.

in the trial, Solicitor Dorsey took sharp and indignant issue with Judge Roan, asserting that if it was not in the province of the judge to give his opinion as to whether it was possible for the jurors to have heard the demonstration.

"I can give my opinion if I wish," retorted the judge. The matter was compromised by the qualification that this possibility was "contended."

Indications Thursday were that the review of the 115 reasons would hardly be completed by night. It is unlikely that the arguments will begin before Friday noon. They will require at least one day.

The character of Frank, a burning issue during his trial for the murder of Mary Phagan, again was the subject of animated argument. Almost the entire forenoon was given over to a fight by Frank's attorneys to establish as reasons for a new trial the

admission by Judge Roan of all the mass of evidence which sought to prove Frank a pervert and a degenerate of the worst type.

Throughout the hearing the lawyers for Frank made ground after ground for a new trial upon the attacks that had been made by the Solicitor upon Frank's character. It was apparent that the convicted man's lawyers were confident that the court had been led into an error by admitting testimony of this sort.

Each Question Contended.

Every question asked by the Solicitor during the trial which sought to elicit answers derogatory to Frank's character and moral conduct into the numerous reasons for a new trial.

The admission of all the testimony bearing on Frank's alleged attitude toward women and his reported acts of perversion, particularly as testified to by Conley; the alleged bias of jurors, and the demonstrations in the courtroom are the three grounds for a new trial on which the defense will place the greatest stress in their arguments, according to all indications during the first two days of the hearing.

The testimony of Miss Irene Jackson, the pretty daughter of County Policeman Jackson, formed the basis of a heated argument at the outset of the hearing between Solicitor Dorsey and A. E. Stephens on one side and Reuben Arnold and Herbert Haas on the other, the attorneys for the defense coming off victorious.

Luther Rosser, chief of counsel for Frank, was not present when the hearing resumed in the little ante room off the library in the State Library.

Attack Girl's Testimony.

Miss Jackson's testimony was taken up in the forty-third reason. The court was declared in error because Miss Jackson had been permitted to tell of alleged particular acts of immorality on the part of Frank which had nothing to do with the crime of the murder.

Dorsey maintained that absolutely no objection had been made at the time. Arnold and Haas replied that a blanket or omnibus objection had been made while Ashley Jones was on the stand from which a ruling came that all testimony of this class should be regarded as objected.

Defense Wins Again.

Judge Roan decided in favor of Arnold and Haas, remarking that the tesitmoynof Miss Jackosn, which had to do with Frank's conduct in the ladies' dressing room on the fourth floor, seemed to be covered by the objection to the cross-questioning of Jones, and also to the direct examination of C. B. Dalton, one of the State's witnesses.

The forty-sixth reason contended that the court erred in letting in the questions of the Solicitor when Miss Lula McDonald was on the stand, Miss McDonald was asked if she was aware that Frank on the Saturday previous to the murder had been seen on a car to Hapeville in company with a young girl whom he sought to persuade to leave the car with him. The witness denied that she knew of any such circumstances, but Frank's lawyers contended that the questions, regardless of the answers given, tended to place in the minds of the jurors an unfavorable conception of the defendant's character, a circumstance extremely prejudicial to his case. The reason was approved by Judge Roan.

Boy's Story Called Unfair.

The forty-seventh ground, based on the testimony of Willie Turner, also was approved as a basis of argument. Turner testified that he saw Frank talking with Mary Phagan some weeks before the murder and the defense objected on the ground that the Solicitor unfairly was seeking to build up in the minds of the jurors the conviction that Frank for some time previous to the pencil factory tragedy was making persistent endeavors to become intimate with the girl, a suspicion which was unjust in view of the meager evidence.

The forty-eighth reason was withdrawn by Attorney Arnold because his objection made during the trial to the testimony of W. P. Murk, a street car conductor, had been withdrawn. Murk had testified that he met Daisy Hopkins one Saturday, and that she told him she was on her way to the pencil factory where she had an engagement with the “boss.”

The Hopkins woman was a witness during the trial, and her character and reputation were vigorously assailed by the State.

Before the hearing was well under way Attorney Rosser announced that there were a number of affidavits which he had not yet obtained, but which he wished to submit along with the rest as soon as they were signed. He remarked that Solicitor Dorsey had made the exchange of affidavits so late that he had not had the opportunity to get four or five counter-affidavits which he knew were available.

With the review of the defense’s grounds for a new trial more than a third completed, it was regarded as almost certain that the fight on the jurors would be precipitated some time Thursday.

The defense, to support their contentions of bias and violent prejudice, had more than a score of affidavits to submit from reputable and prominent persons in Atlanta, Sparta and Monroe, who swore that they had heard Henslee before the trial bitterly denounce Frank and declare that if he was called as a juror, he would do his best to “break his (Frank’s) neck.”

Dorsey Full of Fight.

Solicitor Dorsey went into the hearing Thursday prepared to concede nothing and determined to fight every inch of the way against the accusations of bias and prejudice. He was fortified with affidavits from Henslee and Johenning testifying to their own lack of bias when the trial started and with affidavits from other members of the jury who swore that during the 29 days of the trial they never heard Henslee or Johenning utter a word that indicated their opinions were for or against the defendant.

Reuben Arnold made the startling charge just before the close of the first day's session that it was the crow, and not the judge and jury, who ran the Frank trial.

The discussion was on reason 38, which narrated that during Attorney Arnold's examination of one of the witnesses the spectators laughed in derision when he failed to elicit the answers desired.

"It seemed as though I was the comedian of the trial," observed Arnold. "I never knew I was so funny until that trial took place. Nearly every time I jumped up there was a hostile guffaw somewhere back in the audience."

The defense, in outlining its reason, held that the judge should have cleared the court or taken other radical steps to put a stop to the demonstrations. "Threats of clearing the courtroom were not sufficient as the succeeding disturbances, handclapping and other demonstrations evidenced," the reason read.

Solicitor Dorsey, objecting to this reason as he did to practically every one that was offered, insisted that the dialogue between lawyer and witness which was taking place at the time of the laughter, be entered, so as to show the real cause of the merriment.

"That's all right, let it go in," acquiesced Arnold, "I just wanted to show that it was the spectators who were running the court and not the judge and jury."

The transcript of testimony at this point was entered in the reason in accordance with the wishes of the Solicitor.

Judge Roan hurried the lawyers along in the afternoon session and more than twice as many of the reasons were taken up and passed on as in the forenoon. The majority of the reasons, most of them with slight revisions insisted upon by the Solicitor, were approved by Judge Roan. Others were dismissed from consideration temporarily to be taken up later when the Solicitor

had been able to investigate them carefully by comparison with the records of the case.

Judge Tells of Applause.

One of the most significant events of the hearing came in the certification by the judge Roan of the description of the applause in the courtroom when it was announced that the testimony of Conley in regard to alleged acts of immorality on the part of Frank should remain in the record. Judge Roan certified that it was his recollection that there was applause and stamping of feet and that there was a demonstration which easily could have been heard by the jurors who were in an adjacent room.

This certification on the part of the judge is regarded as highly favorable to the prospects for a new trial. Even should a new trial be denied by Judge Roan, the Supreme Court will not be compelled to go behind the statement of facts, as would be necessary in the event that the possibility of the jurors' hearing the demonstration was merely a contention of the defense, unsupported by the court's certification.

All of the grounds bearing on Conley's testimony which had to do with the alleged acts of perversion also were admitted as bases of argument in the move for a new trial. Practically all of the reasons were subjected to slight amendment at the suggestion of the Solicitor, but were not vitally altered.

Dorsey insisted upon a notation in all of the paragraphs to the effect that no objection to Conley's testimony along this line was made by the lawyers for the defendant until the negro had been under cross-examination for a day and a half.

Attack Miss Hall's Testimony.

The defense succeeded in getting into the reason the statement that the cross-examination had been along other lines that Frank's alleged perversion, and that this phase never had once been touched when the objection was made during the cross-examination.

Frank’s lawyers also held that the court was in error in not permitting Miss Hall, the stenographer, to tell that Frank called her on the telephone the morning of the murder and informed her that he had enough work for her to keep her busy all day; in permitting the Solicitor to question Philip Chambers, an office boy at the pencil factory, in regard to purely suppositious conversations with Frank in which Frank was said to have threatened the boy with dismissal, and in not severely rebuking the Solicitor for this line of questioning, and in permitting testimony which left with the jury the impression that pay had been withheld from the Pinkerton narratives in order that their testimony on the stand might be favorable to the defense so as to get the amounts due.

Fisher Protests His Story Is True.

Detectives were puzzled Thursday over the persistence with which Ira W. Fisher, the “man of mystery in the Phagan murder case,” sticks to his original story involving another man in the slaying of Mary Phagan and declaring Leo M. Frank is innocent. The man is an enigma, which detectives are assiduously seeking

to solve, not because of any importance they attached to his remarkable recital, but in an effort to ascertain the real motive that prompted him to jump into the Frank case in such a sensational manner.

Despite the severe grillings he has undergone already, Fisher has not shown the slightest signs of weakening, and Thursday morning reiterated his story with the same show of confidence that marked his first narration. Ridicule and the Frank charge that he is “lying,” are all the same to him—neither disturbs him. He only smiles when told that he is in a “frame-up,” or is accused of being a “dopester” or a “lunatic.”

“Nothing to Take Back.”

“I’ll go to the penitentiary for life before I’ll ever change my story in the least—I’ve told just what happened, and there’s nothing for me to take back,” calmly remarked the mysterious prisoner.

Fisher said he is not worrying over the possible consequences of his trial Saturday morning before Justice of the Peace O. H. Puckett on the warrant charging him with criminal libel.

“I expected all of this—I am not surprised at being in jail,” he said, “I had read of the way witnesses in the Frank case were being attacked here, and I knew they would go for me as soon as I opened my mouth.”

“I started to come over here several weeks ago and tell all I knew about this case, but I knew they would make it hot for me, because of my trouble with my wife and my bad reputation. But I couldn’t keep my mouth shut any longer—I just worried about this thing until I had to tell somebody about it.”

Shirley’s Attorneys

Charge Old Grudge.

Charles J. Graham, attorney C. Shirley, the Atlanta merchant, the attempted victim of Ira W. Fisher, returned from an investigation of Fisher's actions in Birmingham Thursday.

Mr. Graham held a long conference with Chief of Detectives Lanford upon his arrival and Fisher was brought from his cell for another cross-examination.

The lawyer's trip mainly was for purpose of locating Joe Hicks, who it is declared, played a leading role in the Fisher fiasco when it was first revealed before Chief of Police Bodeker, of Birmingham. Hicks is said to have taken Fisher to the Birmingham police official and accused him to tell the story which accused Shirley of Mary Phagan's murder.

Investigation in the Alabama city, Mr. Graham said, failed to reveal the mysterious Hicks. It was declared there that he had disappeared following the expose of the accusations against Shirley.

The attorney, however, said that he had obtained evidence which will tend to show a motive for Fisher's fabrication.

From what Fisher told Chief Bodeker, according to Graham, he had a private grudge against Shirley and sought revenge.

When questioned on this point Thursday, however, Fisher denied any motive of that kind.

Fisher is held at police headquarters on several serious charges in connection with his story. Graham declared his investigation had not been completed.

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DISPUTES BLOCK FRANK SPEECHES

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DORSEY PLANNING TO MEET NEW ATTACK ON CONLEY'S TESTIMONY

Only an agreement on a few disputed points remained to be accomplished on the resumption of the hearing on a new trial for Leo M. Frank Friday. The entire 115 reasons had been reviewed at the close of Thursday afternoon's session, but several of them were left unapproved to await an investigation of the

records of the case by Solicitor Dorsey. The arguments were to start immediately on the approval of all the reasons.

Two of the reasons, the alleged bias of A. H. Henslee and Marcellus Johenning, jurors, were held in abeyance until Judge Roan had looked over the affidavits of the defense and the counter affidavits submitted by the Solicitor. The judge intimated that an approval of these as reasons on which to argue for a new trial would be tantamount to the granting of the motion, in that an acceptance of the charges of bias as facts automatically would furnish warrant for a new trial without argument by the attorneys.

Frank's lawyers sprang a surprise in the last of their long string of reasons, holding that by the State's theory Jim Conley was an accomplice and that his testimony therefore could not be accepted except as corroborated by the circumstances or by another witness. The Solicitor remarked that he had not considered this proposition but would be prepared to talk on it later in the hearing.

The reason charged that the court erred in not instructing the jury that if they believed from the evidence that Conley watched for Frank ate pencil factory door, and that his purpose in watching was to protect Frank in the commission of acts which constitute a felony in the State of Georgia, then Conley, as to any alleged murder committed in the progress of any such attempt to commit the acts that were described by the negro, would be an accomplice, and the jury could not give him credence unless he was corroborated by the facts and circumstances or by another witness.

The announcement that the temper of the crows about the courthouse on the closing days of the trial was such that grave fears were entertained for the safety of Frank was one of the interesting disclosures of the hearing. Attorney Luther Rosser, chief of counsel for Frank, asserted that they would have "Eaten the defendant alive" if he had gone out among them on the day the verdict was rendered, particularly if an acquittal had been brought in.

Take Advantage of Absence.

Solicitor contended that the defense had waived the presence of Frank in the courtroom at the time the verdict was rendered and now were taking advantage of it to claim that their client would have been mobbed or lynched had he been there, when, as a matter of fact, there was no way of proving that Frank might have received not even a hostile demonstration.

A warm dispute arose of this contention, during which it developed that the court was adjourned in the midst of Dorsey's concluding argument Saturday noon to permit the intense feeling to subside, and that later Frank's presence at the rendering of the verdict was waived by his attorneys at the suggestion of Judge Roan himself. Judge Roan had been addressed by the editors of the three Atlanta newspapers, militia officials and the chief of the police department, and urged, it was claimed, to take every precaution for the safe-guarding of the prisoner, against whom there was unmistakably hostile sentiment.

The hostile sentiment against Frank was emphasized in many of the reasons advanced for a new trial. To most of them Judge Roan certified as they were submitted. The trial was taken from its outset, and note made of every outbreak inside and outside the courtroom. The ovations received by Solicitor Dorsey were described minutely, and the occasions of applause and cheering inside the courtroom when Dorsey scored a point were stressed repeatedly.

Crowd Gets Signal.

Attention also was called to the jeers and derisive laughter that met many of the arguments of Frank's lawyers. From first to last, Frank's counsel contended, it was most evident that the defendant was not obtaining the fair and impartial trial guaranteed by law. The jury was coerced into giving a verdict of guilty and would have dared give no other verdict, according to the defense.

The climax, according to the reasons accompanying the motion for a new trial, came when the verdict was

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CROWD’S TEMPER AT END OF FRANK TRIAL IS URGED AS A REHEARING REASON

Continued From Page 1.

rendered. Apprehensive of the misconduct of the crowd, Judge Roan had cleared the courtroom before the jurors entered to submit their verdict.

While the verdict was being rendered the crowd was signaled that Frank had been declared guilty, and an instantaneous shout went up from the large concourse of persons outside the courtroom, causing a disturbance so great, Judge Roan certified, that he had some difficulty in hearing the polling of the jury.

A crowd of shouting, cheering men met Dorsey as he emerged victorious from the courtroom, and as he made his way across the street toward his offices, members of the throng caught him up and carried him on their shoulders. This, Frank's lawyers commented, was an impressive illustration of the temper of the crowds about the courthouse.

Judge Roan's charge to the jury was carefully reviewed and several points in it picked out to employ as grounds for a new trial. The court was represented to be in error for failing to charge the jury as to the weight that should be given the testimony of Conley, who confessed on the stand that he several times previously had sworn falsely. The judge was accused of leaving the credibility of witnesses of this sort entirely to the jurors.

Wrong Conclusions Drawn.

The court also was said to be in error because he had permitted Solicitor Dorsey and Attorney Frank Hooper in their arguments to draw unwarranted conclusions, after these conclusions had been objected to by Rosser and Arnold. One of the instances cited was Hooper's charge that the failure of the defense to cross-examine the girl witnesses put on the stand by the State was a tacit admission that Frank was guilty of immoral acts and practices to which the witnesses had alluded broadly.

A similar argument was made by Solicitor Dorsey, who maintained that because the defendant's wife failed to visit him for some time after he was taken to the Tower she had the consciousness of his guilt in her heart.

Arnold, in speaking in defense of another reason, resented the innuendo contained in the Solicitor's declaration that "I wouldn't be surprised if the family physicians of some of you jurors had been called to testify on the stand," the implication being that Frank's lawyers shrewdly had engaged the jurors' family physicians in order that their testimony might have more influence, although they were not experts on the particular line of evidence before the court.

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DORSEY CHARGES FRANK CONSPIRACY

PDF PAGE 3, COLUMN 7

SOLICITOR DECLARES FACTORY EMPLOYEES TRIED TO BLOCK PROBE

Solicitor General Dorsey repeated at the hearing on a new trial for Leo M. Frank Friday his charges that friends of Frank and employees at the pencil factory had so concealed and withheld evidence during the murder mystery as to be conclusive indication that the defendant was the guilty person.

The defense was seeking to maintain its contention that the court was in error for allowing testimony and argument along this line when the Solicitor reiterated his belief. He said that the apparent unanimity with which friends and employees withheld information from the detectives made it convincing to join his mind that there was a virtual conspiracy to protect the defendant.

“I hold that I had a right to state what I thought,” he declared to Judge Roan.

“Maybe the Solicitor had no rights in the matter, but I think he had. Let them put in their reasons exactly what I said. I’m willing to stand by it.”

The hearing was delayed considerably by continuous squabbles over minor points in the wording and phrasing of the defense’s reasons.

Attorney Arnold and Solicitor Dorsey, as soon as the hearing on a new Frank trial resumed Friday morning, were embroiled in an argument over the completeness with which the court stenographers had entered the objections of the defense during the trial.

Arnold maintained that the stenographers in many instances had entered in the record only the first objection made by a lawyer for the defense and had disregarded the additional objections that might have been made during the subsequent argument, several of the court reporters merely designating the debate by the notation, “Attorneys argued question pro and con.”

Lee’s Testimony Again.

The point arose at the beginning of the review of reasons which were left unapproved from the first consideration. The

defense maintained that the court erred in letting in the testimony of Newt Lee that Detective John Black had talked to him longer than Frank, the inference be Frank was not seeking to get the truth from the negro. Arnold contended that objection had been made at the time on the ground that it was immaterial, irrelevant, illegal, prejudicial and a mere conclusion.

Dorsey retorted that the only objection made then was that it was not in rebuttal. At this juncture, Attorney Arnold made the charge that the stenographers at times got only one part of the objection, missing what might be made in the course of the following argument. Stenographers Teitlebaum and Freer were called and sworn. Teitlebaum testified that he reported the arguments of counsel in full and later “boiled them down,” retaining all the objections.

Freer said that he omitted the arguments, but made record of all objections, unless one chanced to slip by him, as rapidly as they were made. The disputed reasons were approved after slight revision.

Object to Word “Employ.”

For nearly an hour the attorneys wrangled over the using of the word “employed” in one of the reasons. The defense held that the court had erred in permitting over the objections of the defendant the testimony of Detective Black that Frank had employed counsel the Monday morning after the crime.

Dorsey objected to the wording, saying that there was nothing in the record to warrant the use of “employed.” After this one word had deadlocked proceedings as effectually as a difference over an extremely vital point, a compromise was reached by revising the paraphrase of Black’s evidence to read that Frank “had” counsel the Monday morning after the murder.

J. W. Coleman, stepfather of the murdered Mary Phagan, was an interested spectator at part of the morning session. He was on hand when the hearing opened, and remained listening intently to the debate of opposing council until the middle of the forenoon.

Starnes and Black Present.

Detectives Starnes and Black, who were assigned to Solicitor Dorsey to work under his direction on the investigation into the Phagan murder mystery, have been in constant attendance since the hearing began Wednesday.

Frank's lawyers sprang a surprise in the last of their long string of reasons, holding that by the State's theory Jim Conley was an accomplice and that his testimony therefore could not be accepted except as corroborated by the circumstances of by another witness. The Solicitor remarked that he had not considered this proposition, but would be prepared to talk on it later in the hearing.

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DORSEY PLANS TO FIGHT NEW ATTACK ON CONLEY TESTIMONY AS ILLEGAL

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precaution for the safe-guarding of the prisoner, against whom there was unmistakably hostile sentiment.

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lawyers commented, was an impressive illustration of the temper of the crowds about the courthouse.

Judge Roan’s charge to the jury was carefully reviewed and several points in it picked out to employ as grounds for a new trial. The court was represented to be in error for failing to charge the jury as to the weight that should be given the testimony of Conley, who confessed on the stand that he several times previously had sworn falsely. The judge was accused of leaving the credibility of witnesses of this sort entirely to the jurors.

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The court also was said to be in error because he had permitted Solicitor Dorsey and Attorney Frank Hooper in their arguments to draw unwarranted conclusions, after these conclusions had been objected to by Rosser and Arnold. One of the instances cited was Hooper’s charge that the failure of the defense to cross-examine the girl witnesses put on the stand by the State was a tacit admission that Frank was guilty of immoral acts and practices to which the witnesses had alluded broadly.

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Arnold, in speaking in defense of another reason, resented the innuendo contained in the Solicitor’s declaration that “I wouldn’t be surprised if the family physicians of some of you jurors had been called to testify on the stand,” the implication being that Frank’s lawyers shrewdly had engaged the jurors’ family physicians in order that their testimony might have more influence, although they were not experts on the particular line of evidence before the court.

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DORSEY BUILDS UP DEFENSE FOR JURORS

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SOLICITOR ARMED WITH SHEAF OF AFFIDAVITS TO DEFEAT REHEARING

With the grounds to be argued for a new trial, settled upon at the close of the forenoon session of the Frank hearing in the

State Capitol, the lawyers for the prosecution and defense made ready in the afternoon to begin the actual arguments for and against the motion of the defense.

Practically everything was cleared away except the reading of a few more of the affidavits against A. H. Henslee and Marcellus Johenning, the two jurors accused of bias and prejudice in their consideration of the evidence. It was regarded as likely that the hearing would conclude late Saturday afternoon.

Solicitor Dorsey, in spite of the defense's charges and evidence against Henslee and Johenning, conceded nothing. He was prepared with a great sheaf of affidavits with which to support his arguments that neither of the attacked jurors was guilty of bias or prejudice when he went into the jury box. As this offered the possibility of being the point on which a new trial might hinge, the Solicitor was prepared to fight to the very last every contention of bias by the defense.

Attorney Rosser began the reading of the bias affidavits at 12 o'clock, immediately after the last of the 115 reasons advanced by the defense had been accepted by the prosecution or revised by Judge Roan. Most of them had been published in the newspapers.

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ARNOLD ATTACKS “MOB SPIRIT”

ATLANTA'S PREJUDICE AS BITTER AS RUSSIA'S DECLARES ATTORNEY

Reuben R. Arnold, in the opening argument of the defense in behalf of a new trial for Leo M. Frank Friday afternoon in the library of the State Capitol, made a dramatic comparison of the Frank trial with the "ritual murder" trial now in progress in Keiff, Russia.

Attorney Arnold declared that as horrible as is that travesty on justice in Keiff, that in Atlanta last August was no less horrible. He made a bigger commentary upon the prejudice and mob spirit with which he said the defense was confronted at every turn.

"We have had to contend against two hydra-headed proposition," he said. "Prejudice and ignorance, the twin evils. We

have had to contend with the spirit of the mob. This is no idle dream, but a fact of which your honor is well aware. We have been so circumvented by prejudice and by hatred that their menacing influence has been constantly present in the court."

"The civilized world has been horrified by what is going on in Kieff, Russia, but it is not much stranger than this trial which was enacted in our great city."

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PDF PAGE 6, COLUMN 1

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PDF PAGE 6, COLUMN 6

SHEAF OF AFFIDAVITS FILED BY SOLICITOR ATTACK HENSLEE FOES

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The defense strengthened its claim that Henslee was in Albany, Ga., July 8, by showing a carbon copy of an order signed by Henslee in Albany on that date.

Final Arguments Begin.

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While the verdict was being rendered the crowd was signaled that Frank had been declared guilty, and an instantaneous shout went up from the large concourse of persons outside the courtroom, causing a disturbance so great. Judge Roan certified that he had some difficulty in hearing the polling of the jury.

A crowd of shouting, cheering men met Dorsey as he emerged victorious from the courtroom, and as he made his way across the street toward his offices, members of the throng caught him up and carried him on their shoulders. This, Frank's lawyers commented, was an impressive illustration of the temper of the crowds about the courthouse.

Judge Roan's charge to the jury was carefully reviewed and several points in it picked out to employ as grounds for a new trial. The court was represented to be in error for failing to charge the jury as to the weight that should be given the testimony of Conley, who confessed on the stand that he several times previously had sworn falsely. The judge was accused of leaving the credibility of witnesses of this sort entirely to the jurors.

Wrong Conclusions Drawn.

The court also was said to be in error because he had permitted Solicitor Dorsey and Attorney Frank Hooper in their arguments to draw unwarranted conclusions, after these conclusions had been objected to by Rosser and Arnold. One of the instances cited was Hooper's charge that the failure of the defense to cross-examine the girl witnesses put on the stand by the State was a tacit admission that Frank was guilty of immoral acts and practices to which the witnesses had alluded broadly.

A similar argument was made by Solicitor Dorsey, who maintained that because the defendant's wife failed to visit him for some time after he was taken to the Tower she had the consciousness of his guilt in her heart.

Arnold, in speaking in defense of another reason, resented the innuendo contained in the Solicitor's declaration that "I wouldn't be surprised if the family physicians of some of you jurors had been called to testify on the stand," the implication being that Frank's lawyers shrewdly had engaged the jurors' family physicians in order that their testimony might have more influence, although they were not experts on the particular line of evidence before the court.

Warrant for Fisher Received From Dalton.

A warrant for Ira W. Fisher, the "mysterious witness" in the Frank case, charging murder, was received at the Sheriff 's office Friday morning from the authorities of Dalton.

In addition to the warrant, request was made that the authorities at Dalton be notified immediately when the Atlanta authorities are through with Fisher.

According to a statement Friday morning of J. C. Shirley, the man accused by Fisher, the criminal libel charge sworn out

against Fisher probably will be withdrawn. The hearing was set for Saturday before Justice Puckett, but this probably will be cancelled so that the Dalton authorities may have the custody of Fisher immediately. Chief Lanford declared Friday he also was in favor of turning Fisher over to the Whitfield authorities.